

**ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE**

March 29, 2021

1:34 p.m.

MEMBERS PRESENT

Senator Lora Reinbold, Chair
Senator Mike Shower, Vice Chair
Senator Shelley Hughes
Senator Robert Myers
Senator Jesse Kiehl

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

CONFIRMATION HEARING:

Commission on Judicial Conduct
Todd Fletcher - Anchorage

- CONFIRMATION ADVANCED

Attorney General, Department of Law
Treg Taylor - Anchorage

- SCHEDULED BUT NOT HEARD

SENATE BILL NO. 9

"An Act relating to alcoholic beverages; relating to the regulation of manufacturers, wholesalers, and retailers of alcoholic beverages; relating to licenses, endorsements, and permits involving alcoholic beverages; relating to common carrier approval to transport or deliver alcoholic beverages; relating to the Alcoholic Beverage Control Board; relating to offenses involving alcoholic beverages; amending Rule 17(h), Alaska Rules of Minor Offense Procedure; and providing for an effective date."

- HEARD & HELD

SENATE JOINT RESOLUTION NO. 1

Proposing amendments to the Constitution of the State of Alaska relating to the Alaska permanent fund and appropriations from the Alaska permanent fund.

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 9

SHORT TITLE: ALCOHOLIC BEVERAGE CONTROL; ALCOHOL REG

SPONSOR(s): SENATOR(s) MICCICHE

01/22/21	(S)	PREFILE RELEASED 1/8/21
01/22/21	(S)	READ THE FIRST TIME - REFERRALS
01/22/21	(S)	L&C, JUD, FIN
02/12/21	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
02/12/21	(S)	Heard & Held
02/12/21	(S)	MINUTE(L&C)
03/03/21	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/03/21	(S)	Scheduled but Not Heard
03/10/21	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/10/21	(S)	-- MEETING CANCELED --
03/12/21	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/12/21	(S)	Moved SB 9 Out of Committee
03/12/21	(S)	MINUTE(L&C)
03/15/21	(S)	L&C RPT 3DP 1NR
03/15/21	(S)	DP: COSTELLO, GRAY-JACKSON, REVAK
03/15/21	(S)	NR: STEVENS
03/24/21	(S)	JUD AT 1:30 PM BUTROVICH 205
03/24/21	(S)	Scheduled but Not Heard
03/29/21	(S)	JUD AT 1:00 PM BUTROVICH 205

BILL: SJR 1

SHORT TITLE: CONST AM: GUARANTEE PERM FUND DIVIDEND

SPONSOR(s): SENATOR(s) WIELECHOWSKI

01/22/21	(S)	PREFILE RELEASED 1/8/21
01/22/21	(S)	READ THE FIRST TIME - REFERRALS
01/22/21	(S)	STA, JUD, FIN
02/09/21	(S)	STA AT 3:30 PM BUTROVICH 205
02/09/21	(S)	Heard & Held
02/09/21	(S)	MINUTE(STA)
02/11/21	(S)	STA AT 3:30 PM BUTROVICH 205
02/11/21	(S)	Scheduled but Not Heard
03/02/21	(S)	STA AT 3:30 PM BUTROVICH 205
03/02/21	(S)	Moved SJR 1 Out of Committee
03/02/21	(S)	MINUTE(STA)

03/03/21	(S)	STA RPT 2NR 1AM
03/03/21	(S)	NR: SHOWER, REINBOLD
03/03/21	(S)	AM: KAWASAKI
03/24/21	(S)	JUD AT 1:30 PM BUTROVICH 205
03/24/21	(S)	Scheduled but Not Heard
03/29/21	(S)	JUD AT 1:00 PM BUTROVICH 205

WITNESS REGISTER

TODD FLETCHER, Appointee
Commission on Judicial Conduct
Alaska Court System
Anchorage, Alaska

POSITION STATEMENT: Testified as appointee to the Commission on Judicial Conduct.

SENATOR PETER MICCICHE
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of SB 9.

ANNA BRAWLEY, Title IV Review Coordinator
Agnew Beck Consulting
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the discussion on SB 9.

GLEN KLINKHART, Director
Alcohol & Marijuana Control Office (AMCO)
Department of Commerce, Community and Economic Development
Anchorage, Alaska

POSITION STATEMENT: Answered question during the hearing on SB 9.

SARA OATES, President
Alaska Cabaret, Hotel, Restaurant and Retailers Association
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the hearing on SB 9.

TIFFANY HALL, Recover Alaska
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the hearing on SB 9.

SENATOR BILL WIELECHOWSKI
Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Sponsor of SJR 1.

CLEM TILLION, Chair

Board of Directors

Permanent Fund Defenders

Halibut Cove, Alaska

POSITION STATEMENT: Invited testimony in support of SJR 1.

JOE GELDHOF, Attorney; Member

Board of Directors

Permanent Fund Defenders

Juneau, Alaska

POSITION STATEMENT: Invited testimony in support of SJR 1.

ACTION NARRATIVE

[1:34:16 PM](#)

CHAIR LORA REINBOLD called the Senate Judiciary Standing Committee meeting to order at 1:34 p.m. Present at the call to order were Senators Hughes, Kiehl, and Chair Reinbold. Senators Myers and Shower arrived as the meeting was in progress.

CONFIRMATION HEARING **Commission on Judicial Conduct**

[1:34:51 PM](#)

CHAIR REINBOLD announced the consideration of Governor appointees to Boards and Commissions.

[1:35:51 PM](#)

TODD FLETCHER, Appointee, Commission on Judicial Conduct, Alaska Court System, Anchorage, Alaska, stated that he attended Western Washington University in Bellingham. He said he is seeking reappointment to the Commission on Judicial Conduct.

[1:37:00 PM](#)

CHAIR REINBOLD asked if he has been involved in political campaigns.

MR. FLETCHER said he has been involved in a mayoral campaign.

[1:37:45 PM](#)

CHAIR REINBOLD asked which branch of government sets policy.

MR. FLETCHER answered that the legislative branch writes laws, but the judges must be independent and follow the constitution.

[1:38:47 PM](#)

CHAIR REINBOLD opened public testimony and, after first determining no one wished to testify, closed public testimony on the confirmation hearing for Todd Fletcher.

[1:39:09 PM](#)

SENATOR HUGHES stated that in accordance with AS 39.05.080, the Senate Judiciary Standing Committee reviewed the following and recommends the appointments be forwarded to a joint session for consideration:

Commission on Judicial Conduct
Todd Fletcher - Anchorage

Signing the reports regarding appointments to boards and commissions in no way reflects individual members' approval or disapproval of the appointees; the nominations are merely forwarded to the full legislature for confirmation or rejection.

[1:39:51 PM](#)

At ease

SB 9-ALCOHOLIC BEVERAGE CONTROL; ALCOHOL REG

[1:41:28 PM](#)

CHAIR REINBOLD reconvened the meeting and announced the consideration of SENATE BILL NO. 9, "An Act relating to alcoholic beverages; relating to the regulation of manufacturers, wholesalers, and retailers of alcoholic beverages; relating to licenses, endorsements, and permits involving alcoholic beverages; relating to common carrier approval to transport or deliver alcoholic beverages; relating to the Alcoholic Beverage Control Board; relating to offenses involving alcoholic beverages; amending Rule 17(h), Alaska Rules of Minor Offense Procedure; and providing for an effective date."

[1:41:35 PM](#)

SENATOR PETER MICCICHE, Alaska State Legislature, Juneau, Alaska, stated that SB 9 contains the same language as previously seen in the last legislature. The language contained in SB 9 previously passed the Senate unanimously. He highlighted that the goals were to create a fair business environment, provide increased public health and safety, limit youth access

to alcohol, promote responsible alcohol use, reduce the harms of overconsumption, implement change without negatively harming existing businesses and responsible operators and to expand local control for municipalities. He said that the bill stays with the initial concept of regulating alcohol in the US and Alaska, including a three-tier system, licensure, and population limits. He offered his view that this bill is about balance, reorganization and fairness. He highlighted that 95 percent of the bill reorganizes the entire title. The statutory rewrite of the bill helps make sense of the hodgepodge created by passing bills for 38 years that affect these statutes. SB 9 will address public health, safety and accountability, he said.

SENATOR MICCICHE said last year he proposed an amendment that initially created some consternation from the more traditional industry and the brewers and distillers, but it was worked out, which is why the bill received unanimous support on the Senate floor. He offered to summarize the bill in his presentation.

[1:43:56 PM](#)

SENATOR MICCICHE began a PowerPoint, "Alcoholic Beverage Control (ABC) Board Title 4 Review Project," by reviewing slide 2. He explained that alcohol is unique because nearly 100 percent of the issues related to opioid drug and substance abuse is related to alcohol. There is always a balancing act between what is good for business and still protecting youth and adults' health in communities.

[1:44:33 PM](#)

SENATOR MICCICHE highlighted that stakeholders have spent nine years of work on the alcohol rewrite in SB 9. The process began at the ABC Board, but parts of the title no longer work. This bill will increase law enforcement, he said [slide 3].

SENATOR MICCICHE turned to slide 4, highlighting the diverse group of stakeholders who worked through issues. The legislative process has improved this bill.

SENATOR MICCICHE said the goal of the Title 4 review process is to improve Title 4 by addressing key issues. The alcohol, restaurant and tourism industries are important ones. The goals of SB 9 are to help the industry grow, protect use, hold violators accountable and to reduce the harms of overconsumption of alcoholic beverages.

[1:46:10 PM](#)

SENATOR MICCICHE turned to slide 6. He said this bill will not change the basic framework of the alcohol industry, but the bill will address how the industry operates.

[1:46:35 PM](#)

SENATOR MICCICHE reviewed slide 7, stating that changes in the 3-tier system are designed to support the local craft industry.

SENATOR MICCICHE said slide 8 illustrates the six areas stakeholders worked on, including alcohol licenses, the role and function of the ABC Board, underage drinking, regulation of internet sales of alcohol, technical or administrative law changes, and local option communities.

[1:47:05 PM](#)

SENATOR MICCICHE reviewed slides 9 through 11 titled, "Alaska's Liquor License System: Proposed Changes." He stated that these slides demonstrate how licenses are organized and how endorsements apply to licenses. Some licenses are not limited, including many retail licenses designed for tourism.

[1:47:34 PM](#)

SENATOR MICCICHE turned to slide 12. He discussed the proposed conversion of brewpubs. Currently, craft industry members cannot own a retail license; SB 9 would allow them to have a retail license. This bill would remove the limit on manufacturing and allow pairing with any full retail license. This will allow a brewery to have a Beverage Dispensary License (BDL), a Recreational and Eating Place (REPL), or a package store license.

SENATOR MICCICHE highlighted that the proposed conversion of brewpubs on slide 13 illustrates what he discussed on slide 12.

[1:48:38 PM](#)

SENATOR MICCICHE discussed the proposed manufacturer sales limits by product type on slide 14. This confirms existing retail sales limits for brewery, winery, and distillery retail businesses. If the business wishes to purchase an additional license, he said the bill will allow the business to operate as a bar.

[1:49:04 PM](#)

SENATOR MICCICHE discussed the proposed endorsements on licenses on slide 15. This new concept would add endorsements to existing licenses, giving businesses more flexibility without creating more situation-specific license types. This will allow existing

licensees to select their endorsement and pay a fee. He said that slide 16 lists the types of endorsements available, which read:

- R-7A | Bowling Alley Endorsement
- R-7B | Package Store Shipping Endorsement
- R-7C | Package Store Delivery Endorsement
- R-7D | Package Store Re-Packaging Endorsement
- [R-1] Multiple Fixed Counter Endorsement
- [R-1] Hotel/Motel Endorsement
- [R-1] Large Resort Endorsement
- [R-3] Package Store Sampling Endorsement
- [M-1] Brewery Repackaging Endorsement

[1:50:03 PM](#)

SENATOR MICCICHE discussed the proposed limited samples for package stores on slide 17. This will allow customers to sample the products before buying. The provisions also help the business manage sampling on-premises.

SENATOR MICCICHE reviewed R-7 standardized permits on slide 18. The bill puts all the permits in one place.

[1:50:39 PM](#)

SENATOR MICCICHE related that the permits for special events are shown on slide 19, as follows:

- R-7F | Beverage Dispensary Caterer's Permit (AS 04.11.230; 3 AAC 304.685)
- R-7G | Restaurant Caterer's Dining Permit (3 AAC 304.680)
- R-7H | Club Caterer's Permit (3 AAC 304.690)
- R-7I | Nonprofit Event Permit (AS 04.11.240)
- R-7J | Art Exhibit Permit (3 AAC 304.697)
- R-7K | Alcoholic Beverage Auction Permit (3 AAC 304.699)
- R-7L | Inventory Resale Permit (Retail Stock Sale License, AS 04.11.200)
- R-7M | Package Store Tasting Event Permit (proposed)
- [amended ver. E] | Music Festival Permit (proposed)
- [amended ver. E] | Live Music & Entertainment Permit (proposed)

[1:51:04 PM](#)

SENATOR MICCICHE stated that the package store tasting event permit listed on slide 20 is a new concept that will allow a package store to host a special tasting event on its own premises with onsite consumption of alcohol paired with foods for those attending the event.

1:51:15 PM

SENATOR MICCICHE reviewed the population limits on slides 21 and 22. SB 9 makes numerous changes to population limits to support business growth and communities with limited licenses. He reported that limits are set in AS 04.11.400, using a residents-based formula. The ABC Board authorizes a set number of licenses for each borough and city. This bill will provide some flexibility to move a license from a borough to a city.

1:52:05 PM

SENATOR MICCICHE reviewed the proposed seasonal Recreational and Eating Place (REPL) tourism licenses on slide 23. He stated that these licenses are not under population limits but are designed for businesses that operate seasonally.

SENATOR MICCICHE turned to slide 24. SB 9 will allow businesses to convert public convenience licenses to full restaurant licenses. It would also remove the difficult petition process, which is time-consuming for the applicant, the city and the ABC Board. He explained that currently, there are two types of restaurant licenses, one that can be sold and one that cannot.

1:52:52 PM

SENATOR MICCICHE reviewed slide 25 pertaining to proposed local government petitions for additional restaurant licenses. He highlighted that local governments have asked for additional restaurant license flexibility. He related that his Kenai Peninsula community and the Mat-Su have requested this. He explained the process. A city decides the number of licenses the local community can support. The city can petition the ABC board to grant more licenses. This process moves away from the case-by-case process to one that gives cities more control. He explained that a city or municipality would have the flexibility to bank the licenses to attract businesses.

1:53:54 PM

SENATOR HUGHES referred to the yes or no arrows on slide 25. She said some people are concerned that the ABC Board could deny the restaurant licenses. She pointed out that the Mat-Su valley is growing. She said having the ability to move licenses could solve the situation. She said Sun Mountain is a new development

off the Parks Highway. There are five businesses interested in opening restaurants but lack liquor licenses. She indicated that if a license is denied, the city must wait a year before petitioning for more restaurant licenses. She was unsure of the solution.

1:55:11 PM

SENATOR MICCICHE cautioned that if this bill does not pass, there will be no potential for success. However, if the bill does pass, it is possible that everyone could work together to prepare the petitions. Currently, there is not any flexibility, he said. He also acknowledged that many people invested in liquor licenses are on the other side of this equation. This bill is designed to provide the fairest balance possible for growing municipalities.

1:55:57 PM

SENATOR HUGHES acknowledged the time spent on the bill. She said she worked with Recover Alaska when this process first started. It was focused on protecting Alaska's youth in communities that suffer from serious alcohol problems.

She was unsure how to resolve the issue of cities or municipalities seeking new restaurant licenses. She suggested that the board consider developing criteria so that the petition would be granted when a community prepares an application and meets certain criteria. She said she wanted to avoid subjective decisions.

SENATOR MICCICHE responded that this is a public process. He offered his view that if communities support the petition, the board will likely grant the license. He offered his support for the current ABC Board. He offered his view that growing communities should have an option to expand their restaurant liquor licenses. He acknowledged that some licensees do not want new entrants. He said that the committee could certainly signal its expectation for new entrants since some communities are growing.

1:58:35 PM

SENATOR HUGHES pointed out more people live outside the city limits, so the population being served is 110,000. While she appreciates that the ABC board is functioning well, board members change. She said she would like a long-term solution by establishing criteria for the petition for the license process. She suggested the current board could propose regulations, or the committee could consider incorporating language in the bill

to address it. She voiced her understanding of the delicate balance that is incorporated into the bill.

2:00:28 PM

SENATOR MICCICHE reviewed slide 26, which depicted a flowchart that illustrates an option to allow reallocation of some licenses from a borough to a city for package stores. He said it could provide a solution for a store such as Walmart or Costco to sell liquor.

2:01:00 PM

CHAIR REINBOLD asked if he could elaborate on whether this relates only to bigger stores or if it pertains to smaller businesses.

SENATOR MICCICHE explained the package store option. He said this provides an avenue to address limited license concerns. If a package store license were not available in the City of Wasilla, a retailer could purchase a license from someone located elsewhere, such as a more remote location.

CHAIR REINBOLD asked if this would benefit big stores over smaller businesses.

SENATOR MICCICHE responded that there is always an advantage in alcohol licenses to those with funds to invest. That is the reason it is a commodity that goes up and down in value, he said. He characterized this process as a free-market bidding process that does not change under the bill.

2:02:30 PM

SENATOR MICCICHE reviewed slide 27, related to proposed regulation of trade practices permitted under federal law. He deferred to Anna Brawley to explain the enforcement of trade practices.

2:04:03 PM

ANNA BRAWLEY, Title IV Review Coordinator, Agnew Beck Consulting, Anchorage, Alaska, responded to illegal trade practices. She stated that all practices listed on the slide are prohibited in federal law but are not enforced at the state level. She said that many states have put these rules in place to protect small retailers. For example, a manufacturer could offer an exclusive arrangement or agreement if the retailer agrees not to sell their competitor's products. This will protect all tiers of the industry and help to ensure that a specific brewery is not shut out of the market.

CHAIR REINBOLD appreciated knowing it would help small businesses.

2:05:18 PM

SENATOR MICCICHE reviewed the adjustments to license fees on slide 28. He stated that many fees have not been adjusted in decades. The Alcohol & Marijuana Control Office (AMCO) is receipts funded and relies on fees for prompt responses to licensees and enforcement activities.

SENATOR MICCICHE reviewed the proposed accountability for license fees allocated to local governments on slide 29. It will clarify the required reports from local law enforcement who are directly involved in the enforcement of Title 4.

SENATOR MICCICHE reviewed efforts taken by the ABC Board and AMCO to work with key partners and other agencies on alcohol education efforts, including schools. It will not replace what is happening, but these changes clarify their roles.

2:06:34 PM

SENATOR MICCICHE reviewed slide 31 through 33 related to internet sales. Currently, internet sales are not well regulated, he said. Alaska residents can buy alcohol online without paying state excise taxes. This change will protect small wineries in Alaska that must pay excise taxes. This provision also prevents alcohol sales to underage Alaskans. It would hold Federal Express and other carriers accountable for delivering alcohol to underage consumers or local option areas throughout Alaska. He related that slide 32 illustrates how the process works: Alaska consumers order wine online from a winery. The winery direct shipment licensee verifies the consumer is over 21, in a non-local option area and within the personal use limits. The common carriers will transport and deliver the order in person and verify that the customer is over 21.

SENATOR MICCICHE stated that the ABC board must approve common carriers to transport.

2:08:49 PM

SENATOR HUGHES asked if the signatures will be required for internet deliveries.

SENATOR MICCICHE answered yes. He said that verification is not currently required but will be required under the bill. Carriers will not leave packages on doorsteps.

2:09:21 PM

SENATOR MICCICHE reviewed tracking alcohol orders in local option areas under current Title 4 on slide 3. The ABC Board records the information in a database accessible to the board, package stores, and law enforcement. Currently, there are monthly limits on personal use purchases for customers in damp or dry communities. However, these provisions are presently unenforceable.

SENATOR MICCICHE reviewed the local option database on slide 35. Currently, all data in the database is private and deleted after one year. The aggregate data will be kept for 10 years to allow the board to publish annual total sales volume by region or community. This would help communities and law enforcement to understand the flow of alcohol into local option communities via legal sales.

2:10:10 PM

SENATOR MICCICHE reviewed slides 36 and 37, related to penalty provisions in Title 4. Almost all penalties are class A misdemeanors, from serving alcohol to minors to minor violations. Most violations are not prosecuted and the system does not work. SB 9 would reduce violations for compliance issues not related to safety and other minor offenses to fines but retain class A misdemeanors for serious offenses. The bill does change any felony penalties, especially with respect to local option laws.

2:11:20 PM

SENATOR HUGHES asked how many misdemeanors are being overlooked.

SENATOR MICCICHE deferred to the Alcohol & Marijuana Control Office to respond.

2:12:27 PM

GLEN KLINKHART, Director, Alcohol & Marijuana Control Office (AMCO), Department of Commerce, Community and Economic Development, Anchorage, Alaska, said he has a background in law enforcement. He said very few cases had been prosecuted, that cases are investigated but not pursued since the penalties are onerous. He characterized the penalty provisions in SB 9 as effective. These changes allow for a process that encourages compliance. Sometimes warnings are effective, but if not, violators can be fined. He said that frequent violators could be prosecuted. He likes the system so well that he has worked with the industry on a fine schedule.

2:14:40 PM

SENATOR HUGHES asked how many cases were investigated and not pursued.

MR. KLINKHART offered to provide figures. He estimated about 20 to 75 per year could be handled with small fines. He said that his enforcement team is excited about this because they previously felt their hands were tied.

2:15:49 PM

CHAIR REINBOLD appreciated him providing a law enforcement perspective.

2:16:27 PM

SENATOR MICCICHE stated that slide 38 outlines the proposed penalties for overserving an adult or serving a minor. Currently, a licensee or employee who knowingly overserves an intoxicated adult or serves alcohol to a minor is guilty of a class A Misdemeanor. The bill would change the penalty for both statutes to a minor offense subject to a \$500 fine. In addition, the bill would penalize the owner of the license by imposing an administrative penalty of \$250. He related that the license owner may not know when the servers are repeatedly cited. This allows the license owner to counsel any servers who are overserving.

2:17:56 PM

CHAIR REINBOLD asked who would issue the fines.

SENATOR MICCICHE deferred to AMCO to respond.

2:18:30 PM

MR. KLINKHART answered that any certified police officer can enforce Title 4. While AMCO will continue to provide primary enforcement, the office will work with other law enforcement agencies. Any fines will be deposited to the general fund, he said.

2:19:48 PM

SENATOR MICCICHE reviewed the proposed keg registration on slide 39. This provision was designed to reduce the incidence of adults purchasing alcohol and providing it to underage drinkers. He stated that the process is modeled after Anchorage and Juneau ordinances. When a licensee sells a keg, it is tagged with purchaser information. If the keg is returned to the licensee, the tag will be removed by the vendor. However, if underage

drinking occurs, enforcement will confiscate the keg and fine the adult purchaser.

2:21:37 PM

SENATOR HUGHES asked whether purchasing a keg for a party with underage drinkers would result in a violation, not a misdemeanor. She offered her belief that it is one thing if a parent allows a minor to drink at home, but it seems that the penalty should be more than a \$500 ticket for a person impacting groups of minors.

CHAIR REINBOLD agreed.

SENATOR MICCICHE deferred to Ms. Brawley.

2:22:57 PM

MS. BRAWLEY responded that two penalties might apply. If a person purchased a keg and removed the tag, the penalty for an untagged keg would be a violation and fine of \$100. He said that law enforcement would more likely charge the person with furnishing alcohol to a minor, a Class A misdemeanor. He added that if someone works for a licensee, that person would be charged separately.

2:23:14 PM

SENATOR SHOWER joined the meeting.

2:24:22 PM

SENATOR KIEHL offered his view that the keg regulation may not be perfect, but it should be effective in reducing the problems of adults providing alcohol to minors. He expressed concern about the per capita limits. He said he has not found research to support that per capita limits are effective in reducing societal problems with alcohol.

2:25:27 PM

SENATOR KIEHL said the bill appears to place a more restrictive per capita limit on new categories of licensees. He asked for public safety reasons to impose this new set of limitations.

SENATOR MICCICHE answered that limits for tasting rooms of 1 in 9,000 were changed in SB 9 to 1 in 12,000. He deferred to Ms. Oates or Ms. Hall to generally address population limits. However, the bill changed this provision as a compromise to address competitors' concerns. One prior restriction was to prohibit entertainment in the tasting room. Under SB 9, tasting rooms can have four events per year and hold classes or

community activities. Another provision for breweries and distilleries will change the closing time from a soft close at 8:00 p.m. to a hard close at 10 p.m. Currently, people can arrive just before 8:00 p.m., purchase alcoholic drinks, and stay at the tasting room with no end time.

[2:27:34 PM](#)

SENATOR MYERS joined the meeting.

[2:27:39 PM](#)

SENATOR MICCICHE explained that the previous ABC Board director's approach was to regulate activities at tasting rooms even more. He recalled 1,200 pages of public testimony against the ABC Board's proposed changes. These changes represent some balances that work for the breweries and distilleries and traditional bars or breweries. Since the public supports the new model, this bill works to find a fair balance that will allow additional activities to occur while still mindful that traditional bar and brewery licensees invested substantial money for their licenses.

[2:28:48 PM](#)

SENATOR KIEHL recalled that data supports zoning restrictions, but he has yet to see anything that substantiates that population limits work.

[2:29:20 PM](#)

SARA OATES, President, Alaska Cabaret, Hotel, Restaurant and Retailers Association (CHARR), Anchorage, Alaska, responded that she does not have the data.

[2:29:42 PM](#)

TIFFANY HALL, Recover Alaska, Anchorage, Alaska, responded that research studies show that greater population density is associated with increased alcohol consumption and related harm, including medical harm, injury, crime and violence. Restrictive population limits are an evidence-based strategy recommended by the US Community Preventative Task Force, the World Health Association, the federal Substance Abuse and Mental Health Services Administration (SAMHSA). The Centers for Disease Control and Prevention (CDC) highly recommend population limits to reduce crime, violence, injury, and medical harm.

[2:31:06 PM](#)

SENATOR HUGHES asked if she could provide figures that would show the data tipping point to stop these problems from occurring.

MS. HALL responded that she does not have the figures. She offered to research and report back to the committee. She commented that these studies have been conducted in urban and rural areas and found connections related to population limits.

SENATOR HUGHES highlighted that population limits in the bill must match the data.

CHAIR REINBOLD agreed.

SENATOR SHOWER said he would like data from other states to substantiate using population limits.

[2:33:53 PM](#)

SENATOR MICCICHE clarified that SB 9 does not change population limits. Alaska has operated under this system for many years. This bill captures the way the alcohol bill currently operates, which is critically important, he said. He characterized it as a "reset." He strongly urged members to consider other bills to make additional changes to the system. SB 9 takes this "hodgepodge" of statutes and regulations and makes it easy to understand and organizes it.

[SB 9 was held in committee.]

At ease

SJR 1-CONST AM: GUARANTEE PERM FUND DIVIDEND

[2:37:19 PM](#)

CHAIR REINBOLD reconvened the meeting and announced the consideration of SENATE JOINT RESOLUTION NO. 1, Proposing amendments to the Constitution of the State of Alaska relating to the Alaska permanent fund and appropriations from the Alaska permanent fund.

[2:37:33 PM](#)

SENATOR BILL WIELECHOWSKI, Alaska State Legislature, Juneau, Alaska, sponsor of SJR 1, stated that he introduced a similar resolution for the past eight or nine years. He said that placing the permanent fund in the constitution is the only way to protect the permanent fund dividend. The legislature attempted to do so in 2018 by passing legislation, yet the permanent fund dividends (PFDs) continue to dwindle. Many people were shocked when then-Governor Bill Walker cut the PFD by \$1,000 by vetoing full permanent fund dividend funding in 2016.

In the last four years, the legislature cut the PFD amount. The Alaska Supreme Court said that the legislature and the governor could ignore the plain mandatory language in multiple statutes that require a full PFD to be paid each year. Any governor can reduce the PFD by vetoing the amount to whatever level chosen. Further, any future legislature can set the PFD at whatever level it determines, including setting it to zero.

SENATOR WIELECHOWSKI said corporations or special interest groups often speak to the importance of stability, predictability and consistency in Alaska's tax structures. He offered his view that Alaskans deserve the same predictability and consistency with their PFDs.

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SENATOR WIELECHOWSKI pointed out that the permanent fund dividend program has been one of the most popular programs in American history. According to the Institute of Social and Economic Research (ISER) at the University of Alaska, tens of thousands of Alaskans were elevated from poverty due to the statutory PFD. Alaska has among the lowest income inequality in the United States, largely because of the PFD. According to ISER, the PFD creates thousands of jobs in Alaska.

He said many people don't realize that the founders of the permanent fund in 1976 had envisioned the prospect of a dividend to the people of Alaska. Governor Hammond spoke of having a dividend flow from the permanent fund. In members' packets are several historical statements that were made about the future plan for a dividend program, he said. The 1976 constitutional amendment was specifically changed to allow for PFD payments and a letter of intent was added to clarify these payments.

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SENATOR WIELECHOWSKI said that in 1982, the legislature observed that special interests and the politically connected were reaping more benefit from the permanent fund earnings through government spending than average Alaskans. He reported that the current value of the Permanent Fund is approximately \$74 billion. Article IX, Section 15 of the Alaska Constitution requires that at least 25 percent of the mineral lease rentals, royalties, royalty sale proceeds and federal mineral revenue sharing payments and bonuses received by the state go into the permanent fund.

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SENATOR WIELECHOWSKI cautioned that the PFD is not an entitlement since the subsurface rights of the state belong to the people collectively. Under Article IX, Section 2 of the Alaska Constitution, the state has an obligation to "provide for the utilization, development, and conservation of all natural resources belonging to the State, including land and waters, for the maximum benefit of its people." He said the authors of the 1982 PFD legislation tied the current PFD to this constitutional obligation. Every Alaskan has a right to their share of Alaska's oil wealth and the legislature found that the best, most efficient way to do this was through a dividend.

SENATOR WIELECHOWSKI reported that Alaskans have only received a very small share of the state's oil wealth. For example, 100 percent of state property taxes, income taxes, and production taxes and 75 percent of royalties go to the government. The people receive 25 percent of the state's royalties. Since royalties are typically set at 12.5 percent, Alaskans only receive 3.125 percent of Alaska's oil value deposited to the permanent fund. While Alaskans received 50 percent of the earnings generated from those contributions, the rest was available for the government. The current PFD law included a letter of intent stating that "The people should have the first call on the earnings of the permanent fund." However, in recent years, the people have gotten the scraps.

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SENATOR WIELECHOWSKI said that SJR 1 will honor the historical formula. Thus, the people will see the first call not the last call over the fund income. The government will still have the authority to use a portion of the permanent fund to fund government. However, the government must look to generate revenue in the same way that every other state does.

He offered his view that the only way to protect the permanent fund dividend is to put it in the constitution. SJR 1 does not specifically authorize the PFD in the constitution. However, it would allow the people to vote and decide if the PFD should be protected in the Alaska Constitution. Those who oppose SJR 1 will have a full and fair opportunity to argue against it. He said an issue as critically important as this should be decided in an election. He reiterated the need to let the people decide this issue once and for all. He urged members to support SJR 1.

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CHAIR REINBOLD remarked that she has never voted to cut the PFD. She related her political struggles due to supporting a full permanent fund dividend.

CHAIR REINBOLD stated that it will be necessary to cut government or institute taxes to pay a full PFD. She said she favors cutting government. She asked if the sponsor is willing to cut government spending and if so, to identify where cuts should be made.

SENATOR WIELECHOWSKI responded that he had proposed dozens of cuts during his time in the legislature. He said he did not wish to debate how to accomplish budgetary solutions. Everyone will have different ideas and approaches to tackle this. The state has approximately \$75 billion in the permanent fund. The average generally accepted accounting value is \$70 billion in the last five years. He pointed out that paying the full dividend will cost \$2 billion. Some people argue that a safe draw is 4 percent; others believe 5 percent is sustainable. A 5 percent draw would make \$1.5 billion available for the government. He offered his view that oil tax credits should be eliminated, that Alaska has the lowest oil tax rates in the world yet the oil industry is harvesting money from Alaska and using it to invest in other places in the world.

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CHAIR REINBOLD recalled she agreed not to debate oil tax rates with the sponsor, which is better left to the Senate Resources Committee. She argued that the business environment must be competitive. She said her husband was laid off from the oil industry.

SENATOR WIELECHOWSKI said the state has a legal obligation to achieve a reasonable profit. He argued that Alaska is the most profitable place in the world for oil companies.

CHAIR REINBOLD suggested she could use charts to support her viewpoint.

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CHAIR REINBOLD reconvened the meeting. She maintained that she could bring in economists' charts. She related that this discussion should focus on the permanent fund dividend. She remarked that she supports the PFD program.

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SENATOR MYERS agreed that the people own the resources in Alaska. He said he noticed that SJR 1 does not change the percentage of royalties going to the permanent fund. He asked if the state should maintain its current rate on royalties.

SENATOR WIELECHOWSKI said that SJR 1 retains the statutory formula his constituents favored. Some have advocated changing the formula by going to a percentage of market value (POMV). He acknowledged that the legislature could debate whether to use POMV. However, it is not in this resolution.

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CHAIR REINBOLD offered her view that the private sector is taxed at a rate that is three times the national average. The oil and gas industry offers much more than providing revenue to the state since it provides jobs.

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SENATOR KIEHL reminded members that the constitution's preamble says, "We the people do ordain and establish this Constitution." The notion that government is something other than the people is unwarranted. He said he would also argue that Alaskans received value in other ways. The people got educated, had their roads plowed and their fish counted. He said he has questions about the resolution.

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CHAIR REINBOLD turned to invited testimony.

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CLEM TILLION, Chair, Permanent Fund Defenders, Halibut Cove, Alaska, said he would like the existing law related to the permanent fund dividend put into the constitution so that Alaskans are protected. This law has worked for 40 years, he said. However, the Alaska Supreme Court ruled that the legislature does not need to obey that law. He said he would like a constitutional amendment that makes the legislature obey the law.

He expressed concern that people working in the fishing industry in Dutch Harbor do not pay any taxes since they come to Alaska from the lower 48. He said he is not opposed to taxes, but he is against excessive government, so he would like to see severe cuts. He recommended that the legislature decide which services it will no longer provide. He reminded members that Alaska is

the only land grant state in the nation, having received an endowment of 100 million acres. At the time, Alaska selected land it felt was valuable, including oil fields and wells.

MR. TILLION suggested that the tax debate could be held later. He recalled a territorial legislator who said if you cut the government by 20 percent, it will cripple the territory forever. However, cutting 20 percent of the employees will balance the budget.

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MR. TILLION recalled when the permanent fund was established it was necessary to call upon the Alaska State Troopers to bring in two senators to vote. He lamented that the dividend was not put into the constitution at that time. First and foremost, the money should be protected, he said. The state should not pay dividends when it has bad years. He urged members to move the resolution to the finance committee.

CHAIR REINBOLD agreed that the legislature must cut government. She also agreed that Lower 48 fishermen not paying taxes should be addressed. She said legislators need to work together to determine budget cuts.

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JOE GELDHOF, Attorney; Member, Board of Directors, Permanent Fund Defenders, Juneau, Alaska, stated he serves on the board with Jack Hickel, Roselynn Cacy, Rick Halford, Juanita Cassellius and Jim Sykes. The board keeps in touch with economists throughout the state. The board's primary mission is to protect the permanent fund, including protecting the permanent fund dividend. He emphasized that the permanent fund dividend ties every Alaskan to the funds in the permanent fund. He expressed concern that the permanent fund would be squandered.

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MR. GELDHOF characterized the permanent fund dividend as a vexing problem that the legislature has grappled with resolving. He supported allowing the people to vote on the permanent fund dividend issue and resolve it. This will enable the legislators to focus on the critical needs of cuts and revenue enhancement.

He said that if the legislature uses POMV, it will shift from a permanent fund to an annuity or endowment. He said that the POMV methodology must be prudent and conservative. Otherwise, the state risks over harvesting on a percentage basis, which will

jeopardize the corpus of the fund. He suggested that members listen to Callen & Associates who testified before the Senate Finance Committee that using 5 percent POMV will put the permanent fund in jeopardy. He said that the board prefers the current statutory process in the constitution. However, the legislature should use 4 percent and a 50:50 split if it moves to a percentage of market value (POMV).

[SJR 1 was held in committee.]

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There being no further business to come before the committee, Chair Reinbold adjourned the Senate Judiciary Standing Committee meeting at 3:05 p.m.